

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

MÉNDEZ & CO., INC.,

Plaintiff,

v.

CITRUS WORLD, INC., d/b/a  
FLORIDA'S NATURAL GROWERS,

Defendant.

Civil No. 09-2251 (JAF)

**ORDER**

Plaintiff, Méndez & Company, brings this action in diversity against Defendant, Citrus World, Inc., d/b/a/ Florida's Natural Growers, claiming violations of Puerto Rico's dealers' contracts law, 10 L.P.R.A. §§ 278–278e (2004) (“Law 75”), and tort law, 31 L.P.R.A. § 5141 (1990). (Docket No. 1.) Plaintiff moves for partial summary judgment (Docket No. 35), which Defendant opposes (Docket No. 41). Plaintiff replies to Defendant's opposition. (Docket No. 47.)

Plaintiff seeks partial summary judgment on two issues: (1) whether Defendant is a “dealer” for purposes of Law 75; and (2) whether the distribution contract executed between the parties on September 22, 2004, was still “in full force and effect” when Defendant unilaterally terminated the contract on November 18, 2009. (See Docket No. 35 at 5.) No dispute exists as to the standard for summary judgment under Federal Rule of Procedure 56 and

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1 so we need not recite the standard as developed by the First Circuit's case law. See, e.g.,  
2 Calero-Cerezo v. U.S. Dep't of Justice, 355 F.3d 6, 19 (1st Cir. 2004).

3 Defendant does not dispute that it is a "dealer" under Law 75. (Docket No. 41 at 2.)  
4 Therefore, as of today, that is not an issue. We turn next to the question of whether the  
5 agreement signed by the parties on September 22, 2004, (Docket No. 35-6) ("the Contract")  
6 remained "in full force and effect" at the time Defendant terminated the parties' business  
7 relationship. Again, Defendant concedes that Law 75 does not allow a distributorship  
8 agreement to expire without a showing of just cause for non-renewal. (Docket No. 41 at 10.)  
9 Defendant argues, however, that the Contract does not represent the complete agreement  
10 between the parties and, thus, a genuine issue of material fact exists as to the parameters of the  
11 distributorship contract that was in "full force and effect" on November 18, 2009. (See Docket  
12 No. 41 at 11–12.) Specifically, Defendant asserts that Plaintiff's "obligation to submit annual  
13 marketing plans and budgets and specific supporting documents to receive reimbursements of  
14 marketing expenses was part of the agreement all along." (Docket No. 41 at 12.)

15 We disagree. Under Puerto Rico's Civil Code, where contract terms are "clear and leave  
16 no doubt as to the intention of the contracting parties," the literal meaning of a contract must  
17 be followed, unless that language appears to contradict the parties' true intention. See 31  
18 L.P.R.A. § 3471 (1990). As a result, the First Circuit has held that we may not consider  
19 extrinsic evidence to "vary the express, clear, and unambiguous terms of a contract." IOM  
20 Corp. v. Brown Forman Corp., 627 F.3d 440, 447 (1st Cir. 2010). This extends to cases in

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1 which extrinsic evidence “is offered to show that the written agreement was not the entire  
2 agreement between the parties.” Id. (quoting Exec. Leasing Corp. v. Banco Popular de Puerto  
3 Rico, 48 F.3d 66, 69 (1st Cir. 1995)).

4 Paragraph six of the Contract contains a clearly-stated integration clause<sup>1</sup> that weighs  
5 heavily against the use of extrinsic evidence to argue that the written agreement was not the  
6 entire agreement between the parties. Furthermore, even if the agreement did not contain an  
7 integration clause, paragraph four of the Contract<sup>2</sup> clearly states that Defendant may  
8 occasionally offer certain benefits to Plaintiff, but that such offers depend upon the agreement  
9 of both parties. The clause does not make these potential agreements part of the Contract, nor  
10 do we find the clause ambiguous enough to allow extrinsic evidence to support such an  
11 interpretation.

12 For the foregoing reasons, we hereby **GRANT** Plaintiff’s motion for partial summary  
13 judgment (Docket No. 35).

#### 14 Mediation

15 The court offered, and the parties accepted, to try to resolve this case through mediation.  
16 To that effect, the court recommended, and the parties accepted, that Daniel E. Wathen, Esq.,

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<sup>1</sup> “This agreement is the entire agreement between the parties on the subject matter herein and supercedes any prior agreement written or oral. It . . . may not be amended except in writing signed by both parties . . . .” (Docket No. 35-6 at 2.)

<sup>2</sup> “In support of Products in the territory, FNG will from time to time during the term of this agreement offer various promotions, discounts and allowances. All such activity will be subject to agreement between the parties.” (Docket No. 35-6 at 2.)

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1 retired Chief Justice, Maine Supreme Judicial Court, be asked to mediate. Mr. Wathen's present

2 business address is:

3 Pierce Atwood  
4 One Monument Square  
5 Portland, ME 04101  
6 Tel. (207) 791-1115/Fax (207) 791-1350  
7 E-mail: [dwathen@pierceatwood.com](mailto:dwathen@pierceatwood.com)

8 A copy of this Order will be emailed to retired Justice Wathen, and he will direct counsel  
9 as to where and under what conditions and fees the mediation will take place.

10 Since trial has been set for May 9, 2011, any mediation effort should be exhausted long  
11 before the trial date.

12 **IT IS SO ORDERED.**

13 San Juan, Puerto Rico, this 24<sup>th</sup> day of March, 2011.

14 s/José Antonio Fusté  
15 JOSE ANTONIO FUSTE  
16 Chief U.S. District Judge